

REMARKS

Claims 15-24 and 26-30 stand rejected. Claims 17, 19, and 24 are amended. Claims 15-24 and 26 -30 remain pending.

102 Rejections:

Claims 15-21, 23, and 30 are rejected as anticipated by Dalton (6,138,046). It is respectfully urged this rejection is improper for at least the following reasons.

Claim 15 recites, in part, enclosing the optical fiber core in a continuous, uninterrupted sleeve, wherein the sleeve has a length at least substantially the length of the optical fiber core extending from the optical connector to at least the distal face of the optical fiber core.

The Examiner states that Dalton provides this teaching, and refers to Figure 1; and column 9, line 55 to column 10, line 9. It is respectfully urged that the Examiner has read more into these portions of Dalton than is actually disclosed.

First, it is respectfully urged that Figure 1 of Dalton does not teach the above length characteristic of the sleeve. In particular, Figure 1 in Dalton does not appear to show the proximal portion of the device or a connector. Additionally, the description of Figure 1 in column 4, lines 44-47 specifically states Figure 1 is a view of the distal end of the probe. Accordingly, it is respectfully urged that Figure 1 does not show the proximal portion of the device or the portion of

the device associated with a connector, and so is not properly used by the Examiner to reject invention recited in Claim 15.

Second, it is respectfully urged that the Examiner has misapplied the cited portion of the specification of Dalton. Column 9, line 55 through column 10, line 9 of Dalton discloses that the light output of each of the optical fibers may be coupled, for example, using an SMA connector, into a light measuring device. However, it is respectfully urged that this cited portion of the Dalton patent does not teach or suggest a continuous, uninterrupted sleeve, wherein the sleeve has a length at least substantially the length of the optical fiber core extending from the optical connector to at least the distal face of the optical fiber core.

As noted in the prior response, it is respectfully urged that this portion of Dalton relied on by the Examiner merely states that the light output of the each the dosimetry fibers 20 may be coupled to a connector. In particular, it is not seen how Dalton teaches or suggests the sheath 30 has a length at least substantially the length of the optical fiber core extending from the optical connector to at least the distal face of the optical fiber core. Accordingly, the Examiner is respectfully requested to withdraw this rejection.

Similarly, with respect to Claim 30, it is respectfully urged that the portions of Dalton relied upon by the Examiner do not teach or suggest providing a light transmitting sleeve around the optical fiber and extending in a continuous, uninterrupted fashion from the connector to a distal portion of the optical fiber. Accordingly, withdrawal of the rejection is requested.

The Examiner states that "Given that Dalton explicitly teaches that the sleeve extends at least from the proximal end to the distal face of the optical fiber core..." The Examiner is

respectfully requested to point out where Dalton explicitly teaches the sleeve extends at least from the proximal end to the distal face of the optical fiber core.

With respect to Claim 17, the Examiner's rejection is based on Figure 3a and 3b of Dalton, and column 13, line 7- column 14, line 18. Claim 17 recites the method of Claim 15 comprising forming a closed tip in the sleeve, such as is shown in the figures of the present application. It is respectfully urged that Dalton does not teach forming a closed tip in a sleeve.

With respect to Claim 18, the Examiner is respectfully requested to explain where Dalton teaches providing an optical coupling layer intermediate a portion of the sleeve and a distal portion of the optical fiber core. The Examiner's rejection does not appear to address Claim 18 specifically.

With respect to Claim 19, it is respectfully urged Dalton does not teach providing a space intermediate the distal face of the optical fiber core and the closed tip of the sleeve.

With respect to Claim 20, it is respectfully urged that Dalton does not teach disposing a component in the space provided intermediate the distal face of the optical fiber core and a closed tip. (Claim 20 depends from Claim 19, which is amended to recite a closed tip).

Additionally, with respect to Claims 20 and 21, the Examiner states that Dalton teaches disposing a light scattering component in the space provided intermediate the distal face of the core and the sleeve tip, and the Examiner refers to Figure 1 and column 10, lines 10-25. It is respectfully urged that Column 10, lines 10-25 of Dalton does not teach disposing a light scattering component as maintained by the Examiner. In column 10, lines 26-50, Dalton describes the distal end of the

probe may include a scattering matrix 18 used as a diffusing medium. However, it is respectfully urged that Dalton does not teach disposing a light scattering component in a space as recited in Claim 20 (Claim 20 depends from Claim 19, which is amended with Claim 17).

103 Rejections

It is respectfully urged that the rejection of Claims 22 as obvious over Dalton is improper for at least the reasons set forth above with respect to the base and/or intervening claims.

Claims 24, 26, and 29 are rejected as obvious over Thielen (6,315, 755). It is respectfully urged that this rejection is improper for at least the following reasons.

Claim 24, as amended, recites forming a closed, tissue penetrating tip in the sleeve. It is respectfully urged that Thielen does not teach or suggest forming a closed tissue penetrating tip in a sleeve.

The Examiner refers to the abstract of Theilen, Figure 1 of Theilen, column 2, lines 43-45 and 64-68 of Theilen, and column 3, lines 25-27 as teaching forming a closed, tissue penetrating tip.

The Abstract of Theilen recites a light guide having an "unclad section at its distal tip.." but does not appear to describe forming a closed distal tip. Regarding Figure 1, Figure 1 of Theilen appears to show an open ended tip. (see space to right of element 16 in Figure 1.

Similarly, it is respectfully urged that the specification of Theilen does not teach the subject matter of amended Claim 24

(or dependent claims 25-29). Accordingly, withdrawal of the rejections is requested.

Double patenting rejection

The Examiner is respectfully urged to hold the double patenting rejection in abeyance until allowable subject matter is identified.

Please contact the undersigned at 513 337 3535 with any questions.

Respectfully submitted,

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